

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/032,950	MUIR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rita Mitra	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 6/21/2004.
2.  The allowed claim(s) is/are 1,2,17,18 and 25-39.
3.  The drawings filed on 27 December 2001 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1. <input type="checkbox"/> Notice of References Cited (PTO-892)	5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____.
3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____.	7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment
4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance
	9. <input type="checkbox"/> Other _____.

## DETAILED ACTION

### *Status of the Claims*

Applicants' amendment and response to office action dated March 18, 2004, filed on June 21, 2004 is acknowledged. Claims 1, 2, 17, 18, 28, 29, 32 and 33 have been amended and entered. Claims 3-16 and 19-24 have been cancelled. Therefore, claims 1, 2, 17, 18 and 25-39 are currently pending and are under examination.

### *Response to Remarks and Arguments*

The rejection of claims 17, 18 and 25-33 under **35 U.S.C. 112, first paragraph**, is withdrawn in view of amendment to the claims and remarks on pages 6-7.

The rejection of claims 1, 2, 17, 18, 25-37 under **35 U.S.C. 112, second paragraph** is withdrawn in view of amendment to the claims.

The rejection of claims 1, 2, 38 and 39 under **Nonstatutory Double Patenting** is withdrawn in view of the Terminal Disclaimer filed on June 21, 2004.

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

### *Examiner's Amendments to the Claims*

Claims 32 and 33 have been amended as below:

32. (Amended) The method of claim 30, wherein the peptide is selected from the group of peptides having an amino acid sequence that comprises [G-V-N-A-X-S-S-L-F (SEQ ID NO: 1), G-A-N-A-X-S-S-L-F (SEQ ID NO: 2), G-V-A-A-X-S-S-L-F (SEQ ID NO: 3), A-V-A-N-X-S-S-L-F (SEQ ID NO: 4), G-V-N-A-X-A-S-L-F (SEQ ID NO: 5), G-V-N-A-X-S-A-L-F (SEQ ID NO: 6), G-V-N-A-X-S-S-A-F (SEQ ID NO: 7), and X-S-S-L-F (SEQ ID NO: 8).] SEQ ID NO: 1, SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, SEQ ID NO: 6, SEQ ID NO: 7, and SEQ ID NO: 8.

33. (Amended) The method of claim 31, wherein the peptide is selected from the group of peptides having an amino acid sequence that comprises [G-V-N-A-X-S-S-L-F (SEQ ID NO: 1), G-A-N-A-X-S-S-L-F (SEQ ID NO: 2), G-V-A-A-X-S-S-L-F (SEQ ID NO: 3), A-V-A-N-X-S-S-L-F (SEQ ID NO: 4), G-V-N-A-X-A-S-L-F (SEQ ID NO: 5), G-V-N-A-X-S-A-L-F (SEQ ID NO: 6), G-V-N-A-X-S-S-A-F (SEQ ID NO: 7), and X-S-S-L-F (SEQ ID NO: 8).] SEQ ID NO: 1, SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, SEQ ID NO: 6, SEQ ID NO: 7, and SEQ ID NO: 8.

Authorization for this examiner's amendment was given in a telephone interview with Attorney David Jackson on November 1, 2004.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest a cyclic peptide comprising the structure as given in claim 1, wherein said cyclic peptide inhibits the accessory gene regulator (agr) response. Further the prior art of record does not teach a method for treating a *Staphylococcus aureus* (S. aureus) infection in a subject by administering an amount of said cyclic peptide, wherein the peptide is selected from the peptides having an amino acid sequence comprising SEQ ID NO: 1, SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 4, SEQ ID NO: 5, SEQ ID NO: 6, SEQ ID NO: 7, and SEQ ID NO: 8. Therefore the claims are allowable over the art of record. .

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Claims 1, 2, 17, 18 and 25-39 are allowed.

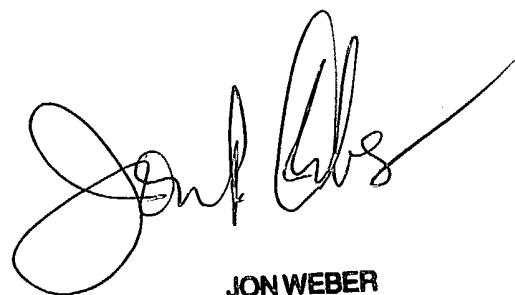
***Inquiries***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (571) 272-0954. The

Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Jon Weber, can be reached at (571) 272-0925. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0547.



Rita Mitra, Ph.D.  
October 25, 2004



JON WEBER  
SUPERVISORY PATENT EXAMINER